

## **MINUTES**

**Tuesday, October 9, 2007**

Mr. Warren Pearce, Chairperson, called the Tuesday, October 9, 2007 meeting of the Community Planning Commission to order at 7:30p.m. in Room 10 of the North Reading Town Hall, 235 North Street, North Reading, MA.

### **MEMBERS**

#### **PRESENT:**

Warren Pearce, Chairperson  
Patricia Romeo, Vice Chairperson  
Christopher B. Hayden, Clerk  
Neal Rooney  
James Perullo

### **STAFF**

#### **PRESENT:**

Heidi Griffin, Planning Administrator  
Debra Savarese. Administrative Assistant

**Minutes**

Mr. Hayden moved, seconded by Mr. Perullo and voted 4-0: (Mr. Rooney absent)

that the Community Planning Commission vote to accept the minutes of September 18, 2007 as amended.

**Agatha Way Subdivision – Discussion**

Attorney Jeff Karp stated that he is representing the developers/owners for Agatha Way. He would like to know what the Community Planning Commission would like to have addressed at this time.

Mr. Pearce stated that the primary issue is the bond for the property. The Community Planning Commission is not concerned with whom is holding the bond, only that they were informed that the developers were not planning to complete the work until the bond expires and then have the town do the work.

Attorney Karp stated that Lowell Coop did not correctly handle the memorandum of sale on the foreclosure, by not listing the escrow account. The developers assumed that when they purchased the property that the road work was bonded and they would work with the town to get the road done. A week before the closing Lowell Coop requested that they submit cash in lieu of what was left in the account. They refused to do this, because it was not covered in the memorandum of sale or notice of foreclosure. They do want to complete the road, but it is their position that the money in the account should be used. The Tripartite Agreement does state that the town does not have the right to self-help to use the money until July 2008. Because of the situation from the prior developer that was a party to the agreement, who has not done any work on this development in at least a year, and has abandoned the project, the money could be obtained at this point and his clients would commit to getting the roadwork done, submitting the invoices to the town to have them paid.

Mr. Pearce stated that the problem is that the Community Planning Commission cannot take the money until the expiration of the bond. At that particular point he does not know if the developers would need to be contracted by the town to do the work. There is also no “Clerk of the Works” (no money to supervise or run the project). If the progress on a subdivision is unacceptable the “Clerk of the Works” is included in the bond when it is renewed. In this case, this has not been done yet. The Community Planning Commission does not want any expenses to be incurred by the town. If Lowell Coop realizes that when the time comes for the bond to expire, the town would take the money, he would think that they would be willing to transfer the bond.

This subdivision received building permits without lot releases and this should not have happened. If everything was to be made legal (ie. drainage) before lot releases are given, the

money that would be released would not go to the current developers. Lowell Coop needs to know that know matter what way this works out, the money will not go to them.

Attorney Karp stated that there was a miscommunication between Lowell Coop and their attorney. He believes that Lowell Coop thought that the bond money was to be included in the sale of the property and will not release the money willingly. He is going to set up a meeting with the attorney to remind him of the legality. The worse case scenario would be that they are going to have to wait until the bond expires in 2008.

Mr. Pearce stated that there will be no lot releases, permits or sign offs until certain conditions are made to the subdivision.

The attorney stated that he would like to track down the former owner/developer of the subdivision and see if he would be willing to give up his right to the tripartite agreement.

Mr. Pearce stated that the developer has done other work in town and is currently working in the town. He believes that the developer would be willing to change over the tripartite agreement. Another option would be to have the current developers take care of the major items to receive their permits at this time and wait until the bond expires to complete the rest of the roadway work.

Mr. Hayden stated that there was also an agreement made with the property owners on the opposite side of the street to provide a buffer from headlights coming out of the subdivision. He would like for the developers to speak to the owners and ask if they would still like to have the buffering. The arborvitaes on lot 5 also need to be replaced.

Mrs. Griffin stated that she would like to know what is going to be done in regard to the detention pond.

Attorney Karp stated that they received a letter from Design Consultants in regard to some remediation and they are addressing them. The detention pond needs to be dredged out both ways on the length. The retention wall near the pond on lot 5 is going to be a little more problematic. The letter from Design Consultants states that the retention wall near the pond in lot 5 is 10' from house, design was 15' from the house. He believes that this is a typo because this would make it closer to the house and further from the retention pond. He will get this clarified. But his understanding is that the retention wall was built too far from the house and too close to the detention pond.

Mr. Hayden stated that it is in the drainage easement.

Attorney Karp stated that there is no notation of the drainage easement on the subdivision plans.

Mr. Pearce stated that a lot of times the contractor will not submit documentation of easements until the end of the construction, in case he needs to work in it.

Mr. Rooney arrived.

**New Campbellton Estates – Modification to subdivision**

Rich Williams of Hayes Engineering stated lot 10 is owned by the original land owner. In order to re-do his septic system a wall needed to be built. The wall is very high and they would like to put some plantings (Junipers and Day Lily's) in front to take the curse off. They would like to pull the sidewalk out to the curb and continue down to the corner.

Mr. Pearce stated that a safety fence is also needed at the top of the wall.

Mr. Hayden moved, seconded by Mr. Rooney and voted 5-0:

that the Community Planning Commission vote to accept the modification to the plan entitled "Modified Definitive Plan, New Campbellton Estates, North Reading, Mass"; dated October 9, 2007; drawn by Hayes Engineering Inc. As presented this evening.

**43D Regulations – cont. P.H. 8:00PM**

Judy Barrett of Commonwealth Opportunities Group presented the proposal for the Chapter 43D Regulations (see attached). She stated that she submitted the proposal to the planning administrator to give to town council for their review. She does believe that if given more time adjustments can be made to make the 43D Regulations better.

Mr. Hayden moved, seconded by Mr Rooney and voted 5-0:

that the Community Planning Commission vote to continue the public hearing for 43D Regulations until Tuesday, October 16, 2007 @ 8:30PM.

**117 Marblehead Street/Beechtree Estates – Definitive Subdivision – cont. P.H. 8:30PM**

Luke Roy of O'Neill Associates stated that the following changes have been made to the plan as requested:

1. A safety fence was added to the top of the retaining wall. 42" minimum as required.
2. Established a 15' no cut zone at the west edge of the site.
3. Details, drainage structures, oil and grease trap hood, outlet control structure.
4. Revised detail of sidewalk at the driveway intersections to meet ADA slope requirements.
5. A design calculation for the retaining wall has been submitted.
6. The Town Engineer requested that additional inspection and testing be done of the fill in the roadway.

Mr. Pearce asked if they received a copy of the arborist report.

Luke Roy stated that they did receive the report. The arborist report appeared to be negative in terms of being in any proximity to the tree or the drip line culvert of the tree. Any work in the root zone would impact the tree. They would like to keep the road where it is and make the best effort to protect the tree.

Mr. Hayden stated that possibly trimming the top branches of the tree may be better than trimming the roots. It will slow down the energy of growth and come back better in the spring. If there are any exposed roots, they should be clean cut and will heal faster.

Mrs. Romeo stated that she is concerned with the site distance of the road.

Attorney Senior stated that moving the road would make the site distance worse.

Luke Roy stated that there are several issues as to why the road should not be moved:

1. Wetland issues.
2. There is a steep drop and a significant amount of fill would be required along with a much greater retaining wall.
3. The crest in curve of road also provides a blind spot.

Mrs. Romeo stated that 600' is excessive, but when looking at intersections that are this close, gives pause.

Attorney Senior stated that in this particular case there will be three homes, there are wetlands that they are trying to avoid and because of the grade in the road they are making the site distance better.

Mr. Pearce stated that a waiver was not requested for the road.

Attorney Senior stated that it should be kept in mind whether it is a legal interpretation or a waiver. It is not envisioned as being a problem, allowing the road to be configured such as this, as a practical matter in reality.

Mr. Pearce asked if a traffic study had been done.

Attorney Senior stated that they did a study, but not a full blown study.

Mrs. Griffin stated that if the Community Planning Commission grants a waiver she would like to have a complete traffic study on file.

Mr. Hayden asked if a traffic study was still on file for Olde Coach Road. If so, the study would still be valid.

Mr. Pretty stated that his driveway is in the same proximity as to where the new road is proposed and when he exits his driveway, he can see cars coming from Olde Coach Road and does not believe that there are any site distance problems.

Attorney Senior stated that if there is a traffic study for Ten Rod Way, the offset was not determined as a waiver but the offset was discussed and a traffic study was done. Does it seem as though the same traffic conditions and the same offset on the same road has already been discussed and determined not to be a problem at Ten Rod Way.

Mr. Rooney asked Mr. Pretty if this is the road that his house is on.

Mr. Pretty stated yes.

Mr. Rooney stated that Mr. Pretty attended the meetings three years ago when the new Campbellton subdivision was proposed. There was a discussion about site distance and there was talk about cutting back some of the rock because there was such a problem with the cars coming down the ramp and down the road and Mr. Pretty had stated that he had difficulty exiting his property.

Mr. Pretty stated that at the time he did not know that the hill was going to be taken down. The cars still go fast down the road, the traffic is no better but any worse and the site distance has improved.

Mr. Hayden read the Town Engineer's (10/05/07) memo into the record.

Mr. Pearce stated that the only item left would be a traffic study on the roadway.

Mr. Hayden moved, seconded by Mr. Rooney and voted 5-0:

that the Community Planning Commission vote to grant the requested continuance of the public hearing until Tuesday, November 6, 2007 @ 8:00PM.

### **Deer Run Subdivision – Discussion**

Dan Rosengarten of 13 Valley Road stated that at the last meeting they residents of Deer Run were trying to negotiate, because they felt that they had a legal right to ask for the playground/park that was in the original subdivision plan. They had decided at the end of the meeting that there was an impasse, was to try to create some type of negotiated compromise. They made an offer that there would be a retaining wall in the front of the lot, landscape and plant trees and shrubs all the way down street and in addition take care of the park to bring it back to its natural state.

Mr. Pearce stated that because of the slope/wetlands located on the site the Conservation Commission would never allow a retaining wall to be constructed. A wooden guardrail could be constructed in its place, which could have the name of the subdivision engraved into it.

Dan Rosengarten stated that this is the first that he has heard that a retaining wall could not be constructed. He feels that if the wooden guardrail does not meet the monetary value as an alternative to what they originally asked for.

Mr. Pearce stated that this area is under the jurisdiction of Conservation.

Dan Rosengarten stated that the second issue is the landscaping down Valley Road. The area was supposed to be cleaned and trees and bushes were supposed to be planted. The pathway from Valley Road and Deer Run also needs to be cleaned up and maintained.

Mr. Hayden stated that they are not sure if the area is privately owned.

Scott Sawyer of 14 Deer Run Drive stated that if there is not going to be a playground there is no reason to do anything to the pathway. It should be left to go back to its natural state.

Dan Rosengarten stated that they were supposed to get a playground according to the subdivision plans and feels that a retaining wall should take the place for monetary reasons.

Mr. Pearce stated that a Homeowner's Association was supposed to be put in place so that the residents would be able to maintain the park. If the residents would like to set up an association at this time, they would be able to have the park.

Dan Rosengarten stated that they want the area landscaped and cleaned up, if they are to give up the park.

Mr. Pearce stated that the plan that was submitted to the Community Planning Commission this evening is incorrect. The plan that was given to the board by the residents of Deer Run is the plan that should be presented.

### **Country Edge – Phase III – Bond Release**

Mr. Hayden moved, seconded by Mr. Rooney and voted 5-0:

that the Community Planning Commission vote to release the remaining \$7,866.63 for the Country Edge-Phase III Subdivision.

### **ADJOURNMENT AT 11:00PM**

Respectfully submitted,

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Christopher B. Hayden, Clerk